

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

PROTOCOL OF AMHERST, INC., D/B/A  
PROTOCOL RESTAURANT,

Defendant.

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19-CV-0598-LJV-JJM  
DECISION & ORDER

On May 9, 2019, the plaintiff, the Equal Employment Opportunity Commission (“EEOC”), commenced this action under Title VII of the Civil Rights Act of 1964. Docket Item 1. On July 9, 2019, this Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 7. On May 23, 2020, the EEOC moved for a default judgment. Docket Item 36. On August 31, 2020, the EEOC moved for approval and entry of a consent decree,<sup>1</sup> Docket Item 56; on October 16, 2020, the defendant, Protocol of Amherst, Inc., responded, Docket Item 66; and on October 23, 2020, the EEOC replied, Docket Item 67. On October 27, 2020, Judge McCarthy issued a Report and Recommendation (“R&R”) finding that the motion for approval and entry of the consent decree should be granted and that the motion for a default judgment should be denied as moot. Docket

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<sup>1</sup> On September 1, 2020, the EEOC moved to seal Exhibit A to the consent decree. Docket Item 58. To protect the privacy of the non-party victims, that motion is granted.

Item 68. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge McCarthy's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation to grant the EEOC's motion to approve and enter the consent decree and to deny the EEOC's motion for a default judgment as moot.

For the reasons stated above and in the R&R, the motion for a default judgment, Docket Item 36, is DENIED; the motion for approval and entry of the consent decree, Docket Item 56, is GRANTED; and the motion to seal, Docket Item 58, is GRANTED. The Clerk of the Court shall close the file.

SO ORDERED.

Dated: December 7, 2020  
Buffalo, New York

/s/ Lawrence J. Vilardo  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE